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**Progressive Casualty Insurance Company**  
**d/b/a Progressive Insurance**

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JUSTIN MATTHEW SUMNER, individually; and  
SYLVIA DAO SUMNER, individually,

Plaintiffs,

vs.

PROGRESSIVE CASUALTY INSURANCE  
COMPANY d/b/a PROGRESSIVE INSURANCE,  
a foreign corporation; DOE INDIVIDUALS 1-20,  
inclusive; and ROE CORPORATIONS 1-20,  
inclusive,

Defendants.

Case No.: 2:23-cv-00698-GMN-DJA

**JOINT PROPOSED DISCOVERY PLAN  
AND SCHEDULING ORDER PURSUANT  
TO FED. R. CIV. P. 26(f) AND LOCAL  
RULE 26-1(b)**

**SPECIAL SCHEDULING REVIEW  
REQUESTED**

Justin Matthew Sumner and Sylvia Dao Sumner ("Plaintiffs"), and Progressive Casualty Insurance Company d/b/a Progressive Insurance ("Defendant"), hereby submit their Joint Proposed Discovery Plan and Scheduling Order Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 26-1(b). Deadlines that fall on a Saturday, Sunday or legal holiday have been scheduled for the next judicial day.

**Statement of reasons why longer or different time periods should apply to the case:**

The parties believe that this matter requires a discovery period of 240 days (eight months) from the date of the Fed. R. Civ. P. 26(f) conference, June 2, 2023. The additional discovery time is necessary because of known delays on the part of medical providers in responding to subpoenas and medical request letters, limited

availability of medical providers to present for deposition, limited availability of experts, and upcoming trial schedules of counsel through the end of 2023.

**LR 26-1(a), Fed. R. Civ. P. 26(f) Meeting:** Pursuant to Fed. R. Civ. P. 26(f) and LR 26-1(a), a meeting was held on June 2, 2023 and was attended telephonically by Paul A. Shpirt, Esq., of Dimopoulos Injury Law, attorney for Plaintiffs, and Gina Gilbert Winspear, Esq. of Dennett Winspear, LLP, attorney for Defendant.

**LR 26-1(b)(1) Discovery Cut-Off Date:** Defendant filed its Notice of Removal on May 4, 2023. The proposed last day of discovery shall be **Monday, January 29, 2024**, which is calculated as 240 days (8 months) from the parties Fed. R. Civ. P. 26(f) conference with took place on June 2, 2023.

**LR 26-1(b)(2) Amending of Pleadings and Adding of Parties:** The parties have until **Tuesday, October 31, 2023**, to file any motions to amend the pleadings or to add parties. This is 90 days before the proposed discovery cut-off date.

**LR 26-1(b)(3), Fed. R. Civ. P. 26(a)(2) Disclosures (Experts):** Disclosure of experts shall proceed as follows: Plaintiffs and Defendant shall disclose their experts to each other at least sixty (60) days before the discovery cut-off date, by **Thursday, November 30, 2023**. Plaintiffs and Defendant shall disclose their rebuttal experts at least thirty (30) days after the initial date for disclosure of experts, by **Friday, December 29, 2023**.

Further, each party agrees to make their experts available for deposition, and facilitate the same, prior to discovery cut-off.

**LR 26-1(b)(4) Dispositive Motions:** The parties shall have until **Wednesday, February 28, 2024** to file dispositive motions. This does not exceed the outside limit of thirty (30) days following the discovery cut-off that LR 26-1(b)(4) presumptively sets for filing dispositive motions.

**LR 26-1(b)(5) Pre-Trial Order:** The pre-trial order shall be filed by **Friday, March 29, 2024**, which is 30 days after the date set for filing dispositive motions pursuant to LR 26-1(b)(5). This date is suspended if the dispositive motions are timely filed. In such a case, the pretrial order shall be filed thirty (30) days after the Court files an Order on any dispositive motions. The disclosures required by FRCP 26(a)(3) shall be made in the joint pretrial order.

**LR 26-1(b)(6), Fed. R. Civ. P. 26(a)(3) Disclosures:** The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections to them shall be included in the joint pre-trial order.

**LR 26-1(b)(7) Alternative Dispute Resolution and Settlement:** The parties certify that they met and conferred about the possibility of using alternative dispute-resolution processes, including mediation, arbitration, and if applicable, an early neutral evaluation; the parties are in discussions regarding possible binding arbitration.

**LR 26-1(b)(8) Alternative Forms of Case Disposition:** The parties certify that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, and the use of the Short Trial Program (General Order 2013-01); the parties agree that none of the foregoing are appropriate for this case.

**LR 26-1(b)(9) Electronic Evidence:** The parties certify that they discussed whether they intend to present evidence in electronic format to jurors for the purposes of jury deliberations. Although not known at this time which exhibits will be electronically presented, the parties shall provide discovery in an electronic format compatible with the Court's electronic jury evidence display system. The parties shall contact the courtroom administrator for instructions about how to prepare evidence in an electronic format and other requirements for the Court's electronic jury evidence system.

#### **Other Discovery Matters**

**Fed. R. Civ. P. 26(a)(1) Pre-Discovery Disclosures:** Pursuant to Fed. R. Civ. P. 26(a)(1)(C), the parties will make their pre-discovery disclosures, including any and all information required by Fed. R. Civ. P. 26(a)(1) on or before Friday, June 16, 2023, which is 14 days from the date of the Fed. R. Civ. P. 26(f) conference.

**Subjects of Discovery:** Discovery will be needed on the following subjects: Discovery will be needed on all of the claims and defenses in this matter and all matters within the scope of Rule 26 of the Federal Rules of Civil Procedure.

**Interrogatories and Depositions:** The customary total number of interrogatories of 25 per party; the parties may agree to more interrogatories by mutual agreement or application to the Court. No more than ten (10) depositions by Plaintiffs and no more than ten (10) depositions by

1 Defendant as provided in Fed. R. Civ. P. 30(a)(2)(A)(i). However, the parties may agree to more  
2 depositions by mutual agreement or application to the Court.

3 **Settlement:** The parties shall confer prior to expert depositions to discuss settlement  
4 options regarding any and all parties, including new parties.

5 **Court Conferences:** Plaintiffs do not request a conference with the Court before entry of  
6 the scheduling order.

7 **Later Appearing Parties:** A copy of this discovery plan and scheduling order shall be  
8 served on any person served after it is entered, or, if additional defendants should appear, within  
9 five (5) days of their first appearance. This discovery plan and scheduling order shall apply to such  
10 later-appearing parties, unless the Court, on motion and for good cause shown, orders otherwise.

11 **Extension or Modification of the Discovery Plan and Scheduling Order:** LR 26-3  
12 governs modifications or extension of this discovery plan and scheduling order. Any stipulation or  
13 motion must be made not later than twenty-one (21) days before the subject deadline and comply  
14 fully with LR 26-3.

15 **Format of Discovery:** Pursuant to the electronic discovery amendments to the Federal  
16 Rules of Civil Procedure effective December 1, 2006, the parties addressed the e-discovery issues  
17 pertaining to the format of discovery at Fed. R. Civ. P. 26(f) conference. The parties do not  
18 anticipate discovery of native files or metadata at this time, but each party reserves the right to  
19 make a showing for the need of such electronic data as discovery progresses.

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Activity	Date
Amend Pleadings	Tuesday, October 31, 2023
Expert Disclosures	Thursday, November 30, 2023
Rebuttal Expert Disclosures	Friday, December 29, 2023
Discovery Cut-Off Date	Monday, January 29, 2024
Dispositive Motions	Wednesday, February 28, 2024
Pretrial Order	Friday, March 29, 2024

Dated this 8<sup>th</sup> day of June, 2023.

Dated this 8<sup>th</sup> day of June, 2023.

**DENNETT WINSPEAR, LLP**

**DIMOPOULOS INJURY LAW**

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**Attorney for Plaintiffs**  
**Justin Matthew Sumner and Sylvia Dao**  
**Sumner**

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: 6/8/2023